



CITY OF LODI

COUNCIL COMMUNICATION

Special Mtg.

AGENDA TITLE: Adopt Resolution Regarding Amended Senate Bill 1717.

MEETING DATE: June 18, 2002

SUBMITTED BY: Deputy City Manager

RECOMMENDED ACTION: That Council review, discuss, and adopt a Resolution regarding Amended Senate Bill 1717.

BACKGROUND INFORMATION: The Lodi City Council, on April 3, 2002, adopted Resolution 2002-74 (Attached) opposing Senate Bill 1717 as introduced by Senator Mike Machado. The Bill has since been amended and has made its way through the Senate Local Government Committee and the Senate Floor. The amended Bill now moves on to the Assembly Local Government Committee on June 19, 2002.

Attached for your information are the following:

1. SB 1717 as Introduced on February 21, 2002
2. SB 1717 as Amended on April 16, 2002
3. SB 1717 as Amended on April 30, 2002
4. Senate Floor vote on May 16, 2002
5. File copy of City staff memo dated May 9, 2002

Mayor Pennino has requested that Council review the amendments and affirm the original Resolution opposing SB 1717, or adopt a Resolution indicating support or making recommendations regarding the amended version of the proposed legislation.

For Council's information, the California League of Cities staff continue to work with Senator Machado's staff to further amend the Bill. City staff have notified League of Cities staff member Dan Carrig, Senator Machado's legislative aide Colin Grinnell, and the Chamber of Commerce regarding Council's Special Meeting Tuesday June 18, 2002.

Funding: Not Applicable

Respectfully,

Janet S. Keeter
Deputy City Manager

Attachment

APPROVED: _____

H. Dixon Flynn -- City Manager

RESOLUTION NO. 2002-74

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF LODI EXPRESSING ITS
OPPOSITION TO SENATE BILL 1717
(MACHADO)

=====

WHEREAS, local control is essential in order to be able to responsibly and effectively provide local services; and

WHEREAS, it is the responsibility of local government to manage, treat, and dispose of sewage; and

WHEREAS, public/private partnerships have proven helpful in meeting this responsibility; and

WHEREAS, the City of Lodi has noncontiguous annexed property used to assist it in the reclamation, disposal, and storage of treated wastewater; and

WHEREAS, Senate Bill 1717 (Machado) is a direct attack on local control and therefore the ability of local government to provide services.

NOW, THEREFORE, BE IT RESOLVED, by the Lodi City Council, that it strongly opposes Senate Bill 1717 (Machado) due to its extremely intrusive nature into local control by its attempt to dictate how a city utilizes property, which is legally within its boundary and owned by that City.

Dated: April 3, 2002

=====

I hereby certify that Resolution No. 2002-74 was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 3, 2002 by the following vote:

AYES: COUNCIL MEMBERS – Howard, Land, Nakanishi, and Mayor Pennino

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Hitchcock

ABSTAIN: COUNCIL MEMBERS – None

SUSAN J. BLACKSTON
City Clerk

2/21/02

BILL NUMBER: SB 1717 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Machado

FEBRUARY 21, 2002

An act to amend Section 56742 of the Government Code, relating to city annexations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1717, as introduced, Machado. City annexations.

Under existing law, upon approval of the local agency formation commission, a city may annex noncontiguous territory not exceeding 300 acres, located in the same county, that the city owns and uses for municipal purposes. If, after the annexation, the city sells all or part of that territory, the territory no longer owned by the city ceases to be part of the city.

This bill would provide that territory annexed in this manner that is subsequently leased by the city for nonmunicipal uses shall cease to be part of the city.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 56742 of the Government Code is amended to read:

56742. Notwithstanding Section 56741, upon approval of the commission a city may annex noncontiguous territory not exceeding 300 acres in area, which is located in the same county as that in which the city is situated, and which is owned by the city and is being used for municipal purposes at the time commission proceedings are initiated. If, after the completion of the annexation, the city sells that territory or any part of that territory, *or leases that territory or any part of that territory for nonmunicipal uses,* all of the territory which is no longer owned by the city, *or which has been leased by the city,* shall cease to be a part of the city. Territory which is used by a city for reclamation, disposal, and storage of treated wastewater may be annexed to the city pursuant to this section without limitation as to the size of the area encompassed within the territory so annexed.

If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by the city and not contiguous to the city, although the territory is contiguous to the territory annexed pursuant to this section.

Notwithstanding any other provision of this section, a city which annexes territory pursuant to this section may annex additional territory in the same county as that in which the city is situated which is owned by the United States government or the State of California and which is contiguous to the first-annexed territory if the total acreage of the first-annexed and the subsequently annexed territory together does not exceed 300 acres in area. If after the completion of the subsequent annexation, the city sells all or any part of the first-annexed territory, the subsequently annexed territory shall cease to be part of the city if the subsequently annexed territory is no longer contiguous to territory owned by the

city.

When territory ceases to be part of a city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing required by Chapter 8 (commencing with Section 57200) of Part 4.

If territory annexed to a city pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

4/16/02

BILL NUMBER: SB 1717 AMENDED
BILL TEXT

AMENDED IN SENATE APRIL 16, 2002

INTRODUCED BY Senator Machado

FEBRUARY 21, 2002

An act to amend Section 56742 of the Government Code, relating to city annexations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1717, as amended, Machado. City annexations.

Under existing law, upon approval of the local agency formation commission, a city may annex noncontiguous territory not exceeding 300 acres, located in the same county, that the city owns and uses for municipal purposes. If, after the annexation, the city sells all or part of that territory, the territory no longer owned by the city ceases to be part of the city.

This bill would additionally provide that when any or all of the territory annexed in this manner ~~that is subsequently leased by the city for nonmunicipal uses~~ is no longer used for municipal purposes, that territory shall cease to be part of the city.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 56742 of the Government Code is amended to read:

56742. (a) Notwithstanding Section 56741, upon approval of the commission a city may annex noncontiguous territory not exceeding 300 acres ~~in area, which is located~~ if the territory meets all of the following requirements:

(1) It is located in the same county as that in which the city is situated ~~, and which~~.

(2) It is owned by the city ~~and is being~~

(3) It is used for municipal purposes at the time commission proceedings are initiated. ~~If, after the completion of the annexation, the city sells that territory or any part of that territory, or leases that territory or any part of that territory for nonmunicipal uses, all of the territory which is no longer owned by the city, or which has been leased by the city, shall cease to be a part of the city.~~

(b) Territory which is used by a city for the reclamation, disposal, and storage of treated wastewater may be annexed to the city pursuant to this section without limitation as to the size of the ~~area encompassed within the territory so annexed~~ territory.

~~If~~
(c) If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by the city, not used for municipal purposes, and not contiguous to the city, although the territory is contiguous to the territory annexed

pursuant to this section.

~~Notwithstanding~~

(d) ~~Notwithstanding~~ any other provision of this section, a city which annexes territory pursuant to this section may annex additional territory in the same county as that in which the city is situated which is owned by the United States government or the State of California and which is contiguous to the first annexed territory if the total acreage of the first annexed and the subsequently annexed territory together does not exceed 300 acres in area. If after the completion of the subsequent annexation, the city sells ~~all or any part~~ any or all of the first annexed territory, the subsequently annexed territory shall cease to be part of the city if the subsequently annexed territory is no longer contiguous to territory owned by the city.

~~When~~

(e) ~~When~~ any or all of the territory annexed to a city pursuant to this section is no longer owned by the city or is no longer used for municipal purposes, that territory shall cease to be a part of that city.

(f) ~~When~~ territory ceases to be part of a city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing required by Chapter 8 (commencing with Section 57200) of Part 4.

~~If~~

(g) ~~If~~ territory annexed to a city pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

SEC. 2. The Legislature finds and declares that without limitation, the term "used for municipal purposes" as used in Section 56742 of the Government Code shall not include a lease for commercial development for business purposes pursuant to Section 37395 of the Government Code, or any other provision of law. It is the intent of the Legislature that cities shall not use the provisions of this section to promote commercial development that is not contiguous to urbanized areas, to increase municipal revenues, or to avoid the land use control of counties.

BILL NUMBER: SB 1717 AMENDED
BILL TEXT

4/30/02

AMENDED IN SENATE APRIL 30, 2002
AMENDED IN SENATE APRIL 16, 2002

INTRODUCED BY Senator Machado

FEBRUARY 21, 2002

An act to amend Section 56742 of the Government Code, relating to city annexations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1717, as amended, Machado. City annexations.

Under existing law, upon approval of the local agency formation commission, a city may annex noncontiguous territory not exceeding 300 acres, located in the same county, that the city owns and uses for municipal purposes. If, after the annexation, the city sells all or part of that territory, the territory no longer owned by the city ceases to be part of the city.

This bill would additionally provide that when any or all of the territory annexed in this manner is no longer used for municipal purposes, as defined, that territory shall cease to be part of the city.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 56742 of the Government Code is amended to read:

56742. (a) Notwithstanding Section 56741, upon approval of the commission a city may annex noncontiguous territory not exceeding 300 acres if the territory meets all of the following requirements:

(1) It is located in the same county as that in which the city is situated.

(2) It is owned by the city.

(3) It is used for municipal purposes at the time commission proceedings are initiated.

(b) Territory which is used by a city for the reclamation, disposal, and storage of treated wastewater may be annexed to the city pursuant to this section without limitation as to the size of the territory.

(c) If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by the city, not used for municipal purposes, and not contiguous to the city, although the territory is contiguous to the territory annexed pursuant to this section.

(d) Notwithstanding any other provision of this section, a city which annexes territory pursuant to this section may annex additional territory in the same county as that in which the city is situated which is owned by the United States government or the State of California and which is contiguous to the first annexed territory if the total acreage of the first annexed and the subsequently annexed territory together does not exceed 300 acres in area. If after the completion of the subsequent annexation, the city sells any or all of the first annexed territory, the subsequently annexed territory

shall cease to be part of the city if the subsequently annexed territory is no longer contiguous to territory owned by the city.

(e) When any or all of the territory annexed to a city pursuant to this section is no longer owned by the city or is no longer used for municipal purposes, that territory shall cease to be a part of that city.

(f) When territory ceases to be part of a city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing required by Chapter 8 (commencing with Section 57200) of Part 4.

(g) If territory annexed to a city pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

SEC. 2. The Legislature finds and declares that ~~without limitation,~~ the term "used for municipal purposes" as used in Section 56742 of the Government Code ~~shall~~ may not include a lease entered into on or after April 24, 2002, for commercial development for business purposes pursuant to Section 37395 of the Government Code, or any other provision of law. *Nothing in this section shall prevent a city from entering into a lease pursuant to Sections 37380 to 37394, inclusive, or Section 37396 of the Government Code.* It is the intent of the Legislature that cities shall not use the provisions of this section to promote commercial development that is not contiguous to urbanized areas, to increase municipal revenues, or to avoid the land use control of counties.

VOTES - ROLL CALL
MEASURE: SB 1717
AUTHOR: Machado
TOPIC: City annexations.
DATE: 05/16/2002
LOCATION: SEN. FLOOR
MOTION: Senate 3rd Reading SB1717 Machado
(AYES 21. NOES 13.) (PASS)

AYES

Alarcon	Alpert	Bowen	Burton
Chesbro	Dunn	Escutia	Figueroa
Karnette		Kuehl	Machado O'Connell
Ortiz	Peace	Perata	Polanco
Romero	Scott	Soto	Speier
Torlakson			

NOES

Ackerman	Battin	Brulte	Haynes	
Johannessen	Johnson	Knight	Margett	
McClintock	McPherson	Monteith		Morrow
Oller				

ABSENT, ABSTAINING, OR NOT VOTING

Costa	Murray	Poochigian	Sher
Vasconcellos	Vincent		

MEMORANDUM

City of Lodi Administration

FILE COPY

TO: H. Dixon Flynn, City Manager

FROM: Janet S. Keeter, Deputy City Manager

SUBJECT: SB 1717 (Senator Machado)

DATE: May 9, 2002

Upon discussions with Senator Mike Machado's staff, it appears that SB 1717 will not be amended prior to leaving the Senate floor. The amendments that we have thus far (reflected in the Attached April 30, 2002 version) would allow the City of Lodi to lease the subject non-contiguous annexed land for recreation uses. This specific use is noted in Section 37396 of the Government Code "A city, county, or city and county may lease property owned, held, or controlled by it, for not to exceed 99 years for stadium, park, recreational, fair, exposition, or exhibition purposes." The term "recreation" is not defined.

The proposed legislation however, would not allow "merchant" power plants (i.e. Calpine would not be permissible). Apparently Senator Machado's staff is working with NCPA to craft appropriate language to amend SB 1717 that would incorporate the power generation use. This amended language will not be introduced on the Senate side, but rather will be introduced when the Bill goes to the Assembly Local Government Committee.

There are still unknowns at this time relating to the legislation such as:

1. Is the April 24, 2002 effective date Constitutional?
2. What is the definition of "recreation" and what ancillary type uses would be permissible? (i.e. golf course club house)
3. What would become of City-owned land that became de-annexed because of a commercial development? Would it revert to County zoning?

The League of Cities staff continue to work with Senator Machado's office to further clarify the intent of the proposed legislation.

As a side note, the Chamber of Commerce Government Relations Committee voted 9-2 to oppose the April 30th version of SB 1717.

Attachment

Proposed Amendments

BILL NUMBER: SB 1717 (Machado)
AMENDED IN SENATE APRIL 30, 2002

SECTION 1. Section 56742 of the Government Code is amended to read:

56742. (a) Notwithstanding Section 56741, upon approval of the commission a city may annex noncontiguous territory not exceeding 300 acres if the territory meets all of the following requirements:

(1) It is located in the same county as that in which the city is situated.

(2) It is owned by the city.

(3) It is used for municipal purposes at the time commission proceedings are initiated.

(b) Territory which is used by a city for the reclamation, disposal, and storage of treated wastewater may be annexed to the city pursuant to this section without limitation as to the size of the territory.

(c) If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by the city, not used for municipal purposes, and not contiguous to the city, although the territory is contiguous to the territory annexed pursuant to this section.

(d) Notwithstanding any other provision of this section, a city which annexes territory pursuant to this section may annex additional territory in the same county as that in which the city is situated which is owned by the United States government or the State of California and which is contiguous to the first annexed territory if the total acreage of the first annexed and the subsequently annexed territory together does not exceed 300 acres in area. If after the completion of the subsequent annexation, the city sells any or all of the first annexed territory, the subsequently annexed territory shall cease to be part of the city if the subsequently annexed territory is no longer contiguous to territory owned by the city.

(e) When any or all of the territory annexed to a city pursuant to this section is no longer owned by the city ~~or is no longer used for municipal purposes,~~ that territory shall cease to be a part of that city. For any lease entered into on and after April 24, 2002, when any or all of the territory annexed pursuant to this section is subject to a lease for commercial development for business purposes executed pursuant to Section 37395 of the Government Code, or any other provision of law, for a purpose which is not a municipal purpose that territory shall cease to be a part of that city. Nothing in this subdivision, shall be interpreted to prevent a city from entering into a lease for the construction and operation of a power generation facility, on territory annexed pursuant to this section.

(f) Nothing in this section, including subdivision (e), shall be interpreted to prevent a city from entering into a lease pursuant to Sections 37380 to 37394, inclusive, or Section 37396 of the Government Code, on territory annexed pursuant to this section. These leases may include a lease or leases for commercial or business purposes provided that the commercial or business purposes are ancillary, incidental, or in support of a municipal purpose.

(f) When territory ceases to be part of a city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing required by Chapter 8 (commencing with Section 57200) of Part 4.

(g) If territory annexed to a city pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

SEC. 2. The Legislature finds and declares that, unless where prohibited by Article 1, Section 10, of the United States Constitution, ~~without limitation, the term "used for municipal purposes" as used none of the changes made~~ in Section 56742 of the Government Code by this legislation shall affect or impair the conditions or obligations of any leases which were entered into prior to the effective date of this act. ~~shall may not include lease entered into on or after April 24, 2002, for commercial development for business purposes pursuant to Section 37395 of the Government Code, or any other provision of law, Nothing in this section shall prevent a city from entering into a lease pursuant to Sections 37380 to 37394, inclusive, or Section 37396 of the Government Code.~~ It is the intent of the Legislature that cities shall not ~~use the provisions of this section~~ lease territory subject to this section to promote commercial development that is not contiguous to urbanized areas, ~~for a non-municipal purpose~~ to increase municipal revenues., ~~or to avoid the land use control of counties.~~

AMENDED IN SENATE APRIL 30, 2002

AMENDED IN SENATE APRIL 16, 2002

SENATE BILL No. 1717

Introduced by Senator Machado

February 21, 2002

An act to amend **Section 37396** and Section 56742 of the Government Code, relating to city annexations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1717, as amended, Machado. City annexations.

Under existing law, upon approval of the local agency formation commission, a city may annex noncontiguous territory not exceeding 300 acres, located in the same county, that the city owns and uses for municipal purposes. If, after the annexation, the city sells all or part of that territory, the territory no longer owned by the city ceases to be part of the city.

(Note to Counsel: Please change the digest to incorporate changes to Government Code Section 37396)

This bill would additionally provide that when any or all of the territory annexed in this manner is no longer used for municipal purposes, *as defined*, that territory shall cease to be part of the city.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 37396 of the Government Code is amended to read:

37396. A city, county, or city and county may lease property owned, held, or controlled by it for not to exceed 99 years, for stadium, park, recreational, fair, exposition, or exhibition purposes, ***and for food vending and sporting goods sales incidental to the stadium, park, recreational, fair, exposition, or exhibition purposes. Territory annexed pursuant to Section 56742 may not be leased under this section for a shopping center, hotel, motel, or lodging house.***

A lease made by a county pursuant to this section is subject to the provisions of Article 8 (commencing with Section 25520) of Chapter 5 of Part 2 of Division 2 of Title 3.

~~SECTION 1.~~**SEC. 2. Section 56742 of the Government Code is amended to read:**

56742. (a) Notwithstanding Section 56741, upon approval of the commission a city may annex noncontiguous territory not exceeding 300 acres if the territory meets all of the following requirements:

(1) It is located in the same county as that in which the city is situated.

(2) It is owned by the city.

(3) It is used for municipal purposes at the time commission proceedings are initiated.

(b) Territory which is used by a city for the reclamation, disposal, and storage of treated wastewater may be annexed to the city pursuant to this section without limitation as to the size of the territory.

(c) If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by the city, not used for municipal purposes, and not contiguous to the city, although the territory is contiguous to the territory annexed pursuant to this section.

(d) Notwithstanding any other provision of this section, a city which annexes territory pursuant to this section may annex additional territory in the same county as that in which

the city is situated which is owned by the United States government or the State of California and which is contiguous to the first annexed territory if the total acreage of the first annexed and the subsequently annexed territory together does not exceed 300 acres in area. If after the completion of the subsequent annexation, the city sells any or all of the first annexed territory, the subsequently annexed territory shall cease to be part of the city if the subsequently annexed territory is no longer contiguous to territory owned by the city.

(e) ~~When any or all of the territory annexed to a city pursuant to this section is no longer owned by the city or is no longer used for municipal purposes, that~~ ***Any or all of the territory shall cease to be a part of that city—~~if any of the following occurs:~~***

(1) It is no longer owned by the city.

(2) It is no longer used for municipal purposes.

(3) It is no longer used for municipal purposes under a lease.

(f) When territory ceases to be part of a city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing required by Chapter 8 (commencing with Section 57200) of Part 4.

(g) If territory annexed to a city pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

~~SEC. 2~~ ***SEC 3.*** The Legislature finds and declares the following:

~~(a) that~~ ***The term “used for municipal purposes” as used in Section 56742 of the Government Code may shall not include a lease entered into on or after April 24, 2002, for commercial development for business purposes pursuant to Section 37395 of the Government Code, or any other provision of law. Nothing in this section shall prevent a city from entering into a lease pursuant to Sections 37380 to 37394, inclusive, or Section 37396 of the Government Code.***

(b) The term “used for municipal purposes” shall include leases pursuant to Sections 37380 to 37394, inclusive, or Section 37396 of the Government Code.

(c) The term “used for municipal purposes” shall include leases for the construction and operation of electrical generation, transmission, and distribution.

***(d) It is the intent of the Legislature that e* Cities may not use the provisions of this section to promote commercial development that is not contiguous to urbanized areas, to increase municipal revenues, or to avoid the land use control of counties.**